



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,951	05/29/2001	Richard C. Graham	10779-003-999	4967

20583 7590 09/29/2005

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

EXAMINER

BERGIN, JAMES S

ART UNIT	PAPER NUMBER
----------	--------------

3641

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/866,951	GRAHAM, RICHARD C.	
	Examiner	Art Unit	
	James S. Bergin	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12, 13 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 14-16 and 20-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Decision to withdraw attorney</u> |

DETAILED ACTION

Allowable Subject Matter

1. The previously indicated allowability of claims 12, 13 and 17-19 is withdrawn in view of the newly discovered reference to Minneman (Des. 276,668). Rejections based on the newly cited reference follow.

Response to Amendment

2. The after-final amendment filed 12/02/2003 has been reviewed and formally entered in the file.
3. The finality of the rejection of the last Office action mailed 06/03/2003 is withdrawn in view of the newly found reference to Minneman (Des. 276,668).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 12 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Minneman (Des. 276,668).

Minneman discloses a gun rest in figures 1-4. The method steps of independent claim 12 are inherent in Minneman's figures.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3641

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 13 is rejected under 35 U.S.C. 102(b) as anticipated by Minneman (Des. 276,668) or, in the alternative, under 35 U.S.C. 103(a) as obvious over Minneman (Des. 276,668) in view of Dean (US 5,829,731).

Minneman discloses a gun rest in figures 1-4 as discussed above.

Regarding claim 13, it appears that the opening in the rest plate is generally tear-drop shaped having the more pointed end of the tear-drop aligned towards a first end section of the rest plate and the more rounded end of the tear-drop aligned towards the second end section of the rest plate (see figures 1, 2 and 4).

If applicant disagrees with this position, Dean teaches a support (figures 1, 2) including a tear-dropped shape opening (element 43) with the point of the tear-drop aligned towards a first end section of the support (element 40) and the round end of the tear-drop aligned towards a second end section of the support (element 30). Dean teaches that the tear-dropped shape permits the support to be used with shafts having a wider range of diameters than would be possible with a circular opening (column 4, lines 7-14).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a tear-drop shaped opening, as taught by Dean, in the gun rest disclosed by Minneman, to permit the rest to be used with shafts having a wide range of diameters. Dean is considered to be analogous art

Art Unit: 3641

because it concerns a support element which fits onto a shaft, which is clearly relevant to a gun support designed to fit onto a shaft.

8. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minneman (Des. 276,668) in view of Webster (US 4,882,869).

Regarding claims 17-19, Minneman does not specifically disclose that the gun rest plate further comprises a retaining device for securing the gun rest to the shaft.

Webster discloses a gun rest with a carrying cable 50 attached at one end to the top flange 28 of the rest plate 20 by an opening formed in and a loop formed on the flange 28 (figure 1), the carrying cable 50 attached at its other end to the shaft 40 (figure 1; col. 4, lines 16-22).

It would have been obvious, in view of Webster, to one of ordinary skill in the art at the time that the invention was made, to provide Minneman's gun rest with a cable attached at one end to the rest plate by a loop formed on an opening formed in the rest plate, and attached at its other end to the shaft, so as to enable a user to carry the gun rest over his or her shoulder while the device was not in use.

Allowable Subject Matter

9. Claims 14-16, and 20-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3641

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Anderson, Jr. (3,576,084); Sharp (Des. 182,146); Swett (77,676); Lorton (1,666,293); Felts (6,044,747); Manuel (3,608,225); Glebe (3,584,821); Blanton (5,544,031); Ruckwardt (5,577,695); Wyke et al. (5,730,522); Memmelaar (5,241,719); Scott et al. (4,784,396); Zielinski et al. (5,678,348); Quinnell et al. (5,811,720); Singletary (6,276,087); LaValle (4,438,581); Helmstadter (5,666,757); and Thompson et al. (6,050,035).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Bergin whose telephone number is 571-272-6872. The examiner can normally be reached on Monday - Wednesday and Friday, 8.30 - 5.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3641

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James S. Bergin



MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER